IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8720 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

V A VADUKAR

Versus

VICE CHANCELLOR

Appearance:

PARTY-IN-PERSON for Petitioner

MR SA DESAI for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 17/04/2001

ORAL JUDGEMENT

The petitioner was holding the post of Executive Engineer under the Gujarat Agricultural University. The petitioner retired on superannuation on 28.2.1999. There was some delay in paying the petitioner pension and gratuity. The petitioner, therefore, filed this petition for the following reliefs :-

(a) to direct the Gujarat Agricultural University to grant the petitioner final pension, commuted pension and other pensionary benefits as per the last pay drawn by the petitioner at the time of his retirement in the pre-revised scale of Rs.3000-4500.

(b) to direct the University to pay interest on the arrears of pension and the other retiral benefits.

2. In response to the notice issued by this Court, affidavit in reply has been filed by the Registrar of the University pointing out that the petitioner was drawing his pay in the pay-scale of Rs.3000-4500 with effect from 1.1.1986 but the State Government had not approved the said pay-scale and, therefore, the matter was under correspondence with the State Government. Even the Local Fund Examiner had also not earlier admitted the pay fixation of the University employees and they were insisting to get the sanction of the State Government.

(The petitioner's grievance was, however, that it was within the province of the University to prescribe the pay-scales for its employees and that the matter ought not to have been delayed on the ground of non-approval by the State Government.)

Hence, the petitioner was paid 100% provisional pension on the basis of the pay-scale of Rs.2200-4000 (which was the pay-scale of the lower post i.e. Deputy Executive Engineer). The University has further pointed out in the affidavit in reply that there was delay on the part of the petitioner in submitting the proposal for the pension papers and that he initiated the process only three days prior to the date of his superannuation.

3. In the facts and circumstances of the case and having heard the petitioner as party-in-person and Mr SA Desai, learned counsel for the University, it appears that the only dispute which now survives is about the amount of Rs.5000/- having been withheld by the University from the gratuity amount payable to the petitioner. The amount was earlier withheld on the ground that some inquiry was contemplated against the petitioner. Even though the petitioner retired on superannuation with effect from 28.2.1999, no inquiry has been initiated against the petitioner for more than two years. Under the circumstances, it would be just and

proper to direct the respondent University to release the withheld amount of Rs. 5000/- within one month from the date of receipt of the writ of this Court or a certified copy of this judgment, whichever is earlier.

4. The petitioner does not press for his claim for interest on the ground that the University has not initiated and in the hope that the University does not initiate any inquiry against him and that he reserves his claim for interest in case the petitioner is subjected to any departmental inquiry.

5. In view of the above, the petition is partly allowed. The respondents are directed to pay the petitioner the withheld gratuity amount of Rs.5000/- within one month from the date of receipt of the writ of this Court or a certified copy of this judgment, whichever is earlier.

It is clarified that the petitioner has given up his claim for interest in the aforesaid hope and that consequently the petitioner shall be at liberty to make his claim for interest again in case of any change of stand on the part of the University.

6. Rule is made absolute to the aforesaid extent only with no order as to costs.

(M.S. Shah, J.)
sundar/-